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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/756,405	01/14/2004	Taketo Yoshii	742406-29	2620

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EXAMINER

NAJJAR, SALEH

ART UNIT	PAPER NUMBER
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2157

DATE MAILED: 03/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

HL

Office Action Summary	Application No. 10/756,405	Applicant(s) YOSHII ET AL.	
	Examiner Saleh Najjar	Art Unit 2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>August 24, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

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1. This action is responsive to the application filed on January 14, 2004. Claims 1-6 are pending.

2. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

3. A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

4. Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-9 of copending Application No. 10/721,415. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

5. Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4 of copending Application No. 10/721,416. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

6. Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-8 of copending Application No. 10/756,268. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

7. Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-2 of copending Application No. 10/756,539. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

8. Claims 1-6 are provisionally rejected under 35 U.S.C. 101 as claiming the same invention as that of claims 1-4 of copending Application No. 10/756,503. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

9. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

10. Claims 1-6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-9 of copending Application No. 10/721,415. This is a

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provisional double patenting rejection since the conflicting claims have not in fact been patented.

11. Claims 1-6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-4 of copending Application No. 10/721,416. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

12. Claims 1-6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-8 of copending Application No. 10/756,268. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

13. Claims 1-6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-2 of copending Application No. 10/756,539. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

14. Claims 1-6 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-4 of copending Application No. 10/756,503. This is a provisional double patenting rejection since the conflicting claims have not in fact been patented.

15. Claims 1-8 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-2 of U.S. Patent No. 6,711,620. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application represent an apparatus and program in contrast to the method claims 1-2 of U.S. Patent No. 6,711,620.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

16. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

17. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roberts, U.S. Patent No. 5,801,696.

Roberts teaches the invention substantially as claimed including a system and method for queuing events destined for one or more windows associated with applications displayed by a computer (see abstract).

As to claim 1, Roberts teaches an event sending system in a computer for sending to an application an event corresponding to an input from a user, comprising:

means for accepting receivable event information identifying an event that is capable of being received by the application, the application capable of executing a process based on the event (see figs. 1-6; col. 2, lines 60-67; col. 3, lines 1-10, lines 45-55; col. 4, lines 1-10; col. 12, lines 60-67, Roberts discloses that applications are associated with certain types of logical events representing user inputs),

means for determining an application to which the event is sent based on application determining information that defines which application receives the event based on the receivable event information (see col. 4, lines 1-30, Roberts discloses that the event is routed by the dispatcher based on its type); and

means for sending the event to the application determined in the means for determining the application (see col. 12, lines 15-20, Roberts discloses that the application informs the dispatcher of the types of events it is interested in).

Roberts fails to teach the claimed limitation of a broadcast receiver.

However, "Official Notice" is taken that the concept and advantages of implementing the event sending method in a digital broadcast receiver is old and well known in the art.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Roberts by implementing the window display process in a digital broadcast receiver. One would be motivated to do so to implement an application windowing capability through a graphical user interface in a digital broadcast receiver.

As to claim 2, Roberts teaches the system of claim 1 above, wherein the determination is based on stored application determining information (see col. 12, lines 1-20, dispatcher memory).

Claims 3-6 do not teach or define any new limitations above claims 1-2 and therefore are rejected for similar reasons.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saleh Najjar whose telephone number is (571)272-4006. The examiner can normally be reached on Monday - Friday 9:00am-6:00pm w/ first Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (703)308-7562. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Saleh Najjar', with a stylized, flowing script.

Saleh Najjar

Primary Examiner / Art Unit 2157